



FRISCO DEVELOPERS COUNCIL

September 22, 2009

Via email: jlettelleir@friscotexas.gov

Mr. John Lettelleir AICP
Director of Planning
City of Frisco
6875 Main Street
Frisco, TX 75034

RE: Frisco Developers Council's Comments to the
Zoning Diagnostic Report

Dear John,

Thank you for the opportunity to review and comment on the Zoning Diagnostic Report. We appreciate the efforts of the City to make the Zoning Ordinance more user-friendly and to promote more efficiency in development. We have reviewed the Report and understand that many of the suggestions in the Report will lead to proposed revisions to the Zoning Ordinance. We welcome the opportunity to review those specific suggestions with your office.

Please find the FDC's comments below.

1. General Concepts

"3. The new Zoning Ordinance should focus on outlining a land development process that will result in a better-quality urban environment."

Can the undeveloped properties in Frisco be "urban"? Only so many areas of Frisco can be "urban". It seems that the areas best suited for "urban" development should be designed and developed for the best quality. The remaining properties will continue to be developed for high-quality suburban development.

FOUNDING MEMBERS

Arcus Realty
Beazer Homes
Blackard Developments
Blue Star Land, L.P.
Centex Homes
Connell Development, Inc.
Continental Homes
Daiwestern Developments, Inc.
Frisco West, Ltd.

Gehan Homes, Ltd.
Goodman Family of Builders
Hall Financial Group, Ltd.
Highland Homes
HRC Ranch Ltd.
Jones & Boyd Inc.
KB Homes
Land Advisors, Inc.
Land Plan Development, Inc.
Paramount Land Development, Inc.

Principle Management Group
Rainforest Creations, Inc.
Ryland Homes
Sam Roach Business Center
South Star Development
Sowell & Co.
Stratford Group
Tiger Lily Properties Assoc., L.P.
Warren Clark Development, Inc.

2. Update Style, Numbering, and Page Layout

We suggest that either at the end of a section or within a separate section of the new Zoning Ordinance that a reference be inserted identifying the date of the latest amendment to a zoning regulation. For example,

- A. A lot in the 2-F District may be platted into individual pairs such that a unit may be placed on each of the individual pairs of the lot. The subdivision plat shall designate the pairs for each lot and which lot lines are to be outside lot lines of each pair. There shall be only one dwelling unit per lot, and no dwelling unit shall cross a designated outside lot line. No single-family dwelling may be constructed on one of the designated pair of lots. [January 20, 2004]

With this information, the public will be able to determine whether the regulations they are reviewing are the latest regulations.

3. Use State Definitions for State Regulated Businesses

There may be federal definitions that need to be referenced as well such as in industries regulated by federal regulations (e.g. gas transmission, telecommunication facilities, etc.).

4. Consider Consolidating Single Family Districts

We are agreeable with this concept, but reserve comment pending the recommendation for the revised zoning ordinance. Attention must be given to not only the consolidation, but also to standards that might be deleted.

5. Develop Alternatives to the Minimum Lot Size Requirement

We are generally agreeable with allowing a maximum density per acre requirement as an alternative to the standard minimum lot size; however, the density must make sense. Further, the proposed alternative could be unnecessarily complicating and confusing. Implementation could also be difficult. Will the percentages be required per plat, phase, subdivision, neighborhood, or overall development? The market should control how the lots are allocated. We suggest that this approach be an option rather than a requirement. Therefore, we reserve comment pending the proposed revised zoning ordinance.

6. Review and Update Zoning District Purpose Statements

Without seeing the proposed revisions to the Purpose Statements, it is difficult to respond. We will provide comment to the proposed revisions to the Purpose Statements.

7. Review Setbacks for all Zoning Districts

We agree that the setbacks should be reviewed and flexibility designed into the regulations. It is a great help for developers to reduce side yard setbacks to 5' and front yard setbacks to 20'. This will put Frisco in line with many cities around the Metroplex that already have 5' minimums and it will help developers avoid a very small portion of the additional development costs incurred as the result of Frisco requirements. The proposed setbacks, though, should not prohibit desired floor plans. The Fire Dept. seems to be the opponent to reduced setbacks and it sounds like we need to figure out how to appease them to get this accomplished. We will work with the City staff and provide comments to the proposed setbacks during the review of the proposed zoning ordinance.

8. Review Lot Size, Width, and Depth Requirements for all Zoning Districts

We agree that the lot size, width, and depth requirements should be reviewed and flexibility designed into the regulations. We will work with the City staff and provide comments to the proposed lot size, width, and depth requirements during the review of the proposed zoning ordinance.

9. Reduce the Minimum Dwelling Area (House Size) Requirement

If the Comprehensive Plan's intent is "to provide for full-life cycle housing options", then we suggest that the recommendation to go to a minimum dwelling area size of 800 square feet be reconsidered. There is a need for units with smaller unit sizes and such units are commonly recommended in new urbanism developments. As with other development standards, we will work with the City staff and provide comments to the proposed minimum dwelling area size during the review of the proposed zoning ordinance.

10. Require Housing Integration

These types of recommendations can work very well in appropriate developments such as Harbor Town and in larger developments, but difficult or impossible to implement in smaller subdivisions. Integration may not be appropriate in every setting. Typically, in the development business, a market is recognized and targeted. To artificially manipulate development based on income is very difficult. We defer comment until we understand the specific integration proposal. Further, we question whether such a social agenda should be the basis of land use regulations. Additionally, will the recommended development standards (such as an 800 square foot minimum dwelling area) be required in all units (including "mother-in-law suites).

11. Adjust Height Restrictions within Nonresidential Zoning Districts

If a residential proximity slope is adopted, it would make sense that the slope for properties adjacent to single family residential be flatter than the slope adjacent to multifamily residential.

12. Amend the OTC (Original Town Commercial) District to Allow for Greater Functionality

We agree that the Fire Department concerns should be addressed.

13. Promote "Usable Open Space" in the Front and Side Yards

"The intent is to incorporate open space or natural areas to prevent the look and feel of congestion and density from the public realm."

Could you please clarify whether this recommendation is intended for residential or nonresidential development? This standard appears to apply to nonresidential property. However, if it is intended for residential development, the recommendation in practice would have several shortcomings. The proposed standards need to be flexible enough to allow the developer to provide an interesting development while still providing the appropriate open space. Sometimes the open space in the rear and side yards is appropriate. Further, retention and detention can be incorporated into an interesting, sustainable design. Sustainable design techniques sometimes call for open areas to perform as detention/ storm water filtering areas.

14. Combine Existing Nonresidential Zoning Districts

We understand the need and agree in part on the need to consolidate nonresidential districts. We would like to reserve comment until after we understand the eventual development standards in the new consolidated districts.

15. Reduce the Amount of Specific Use Permits (SUPs) within the Use Chart

We understand the reasoning for reducing SUP's, but reserve comment pending specific recommendations.

16. Add the Tollway Overlay to the Use Chart

We agree that adding the Tollway Overlay to the Use Chart is a good idea.

17. Add Section Regarding Alternative Energy

Wind Energy Conversion System, solar panels and other alternative energy techniques must be allowed. We understand the need to address visual impacts, but also that these are quickly evolving systems. New regulations should not discourage their use or prevent future creative implementation of such apparatus. Further, any city ordinance should not prevent reasonable constraints by the HOA.

18. Use Chart and Definitions

The use of the North American Industrial Classification System seems to work well in other cities although there may still be instances in which a use may need interpretation.

Would this section also clarify the permitted uses in the Form Based Code?

19. Shared and Maximum Parking Standards

Shared parking generally makes sense and we can support an aggressive approach to reduce overall parking. However, several users mandate a level of parking that may exceed minimum requirements. Those practical considerations also need to be considered in such an ordinance change.

20. Masonry Requirements – Cementitious Fiber Board Siding (CFBS)

Members of the FDC would like to review the City staff's proposed Cementitious Fiber Board Siding standards. Further, the Zoning Regulations should be flexible enough to allow alternative materials that demonstrate satisfactory strength and durability characteristics.

21. Landscape Edge Requirements

We agree that the landscaping buffer size, specifically within the OTC, and the methods used to calculate the required landscaping need to be clarified. We would like to provide assistance to the City staff on this issue.

22. Residential Driveway Standards

While we understand the concept of locating driveways on adjacent corners of lots so neighbors interact more, it does not make sense in all cases from a practical standpoint. It removes homebuilder flexibility on product type offerings. This will prevent creative design if the location of driveways and mailboxes are mandated. In addition, from a development standpoint, there are many cases where developers have to locate inlets in a specific location on the lot, forcing the driveway to the other side. It has been the experience of some members that these designs do not work. Driveway locations are also often set to minimize the driveway slopes, which are often a marketing objection from a prospective homebuyer. The driveway slope issue (which typically dictates driveway location) would be lessened but not eliminated if the City (a) didn't recently increase the minimum street slopes to 0.8%, and (b) allowed rolldown curbs (which would also eliminate the need, per the City's current specs, for breaking out the "integrated" curbs, which also disrupts the pavement integrity while also increasing the odds of subterranean drainage under the pavement slab). Locating driveways on adjacent corners also substantially increases development cost in fine grading of the lots in some cases because of a need for retaining walls.

If a goal of the City is to promote interaction among neighbors, perhaps reducing setbacks and street widths (especially in alley-served areas) may be more effective means of promoting such interaction.

23. Cluster Development

We encourage the use of clustering and the use of bonuses.

24. Open Storage and Screen Requirements

We understand the need to clarify these sections and reserve the ability to comment pending specific suggestions.

25. Alternative Subdivision Design Procedure

We appreciate the efforts to make Alternative Subdivision Design more developer-friendly and believe that this must be included in the revised Zoning Ordinance. We suggest expanding the scope of this section to allow cutting-edge design techniques that vary from the mainstream standards. For example, many of the proposed LEED ND standards and best practice techniques for new urbanism may not satisfy current standards. A procedure to allow environmentally-friendly or new urbanism designs should be included in the revised Zoning Ordinance.

26. Façade Review Procedures

Recommendations:

Façade review should have its own section in the Zoning Ordinance FDC: We agree.

Update façade checklists FDC: We need to examine the revised checklist.

Provide additional graphic examples FDC: We agree that this always aids in the development process.

Create easy-to-follow standards that are easy to enforce FDC: We agree and are willing to assist.

Add standards for incorporating "franchise architecture" FDC: We understand that many retailers have come a long way in terms of assuring that their design fits into the community. Based on our experience in other communities, this may not always work and there tend to be specific design features that cannot be modified. We suggest caution to prevent a stifling impact on retail development.

Eliminate requirements for "stick on" elements currently in the Zoning Ordinance FDC: We agree, but would like to know the alternatives.

Create standards to incorporate big-box buildings with in-line uses FDC: We agree and would like to offer our assistance with these standards.

Primary and secondary materials need to be precisely defined FDC: We agree.

The current Retail Design Standards section in Article IV can be eliminated with a more comprehensive "Façade Review" section FDC: We understand and would like to review the new section.

Address standards for self-storage buildings FDC: We understand and would like to review these proposed standards.

27. Sustainable Placemaking and Concepts from the Form Based Code

According to the Form Base Code, "The standards set out in this document (i.e. the Form Based Code) are intended to be utilized in creating planned development districts throughout the City which implement the Comprehensive Plan." It represents one concept for development and while it is a valuable tool for developers and the City in working through PD's, it should not apply to all zoning in the City. Further, because the FBC is very specific, it is very restrictive on developers and we fear that if these restrictions are applied to the City's zoning ordinance, they take away the developers flexibility to adjust to changing markets'/buyers' preferences. With regard to the FBC process, there is a significant amount of staff approval and control that may be appropriate for you as the current Director, but not appropriate for a future Director.

28. Creek Density Bonus

Any standards adopted to require additional land for protection of creeks should be on an incentive basis. Further, developable land should not be set aside for such purposes without bonuses. Increased density bonus and townhomes along single loaded streets should be permitted, but should not mandated. We would like to reserve comment subject to specific recommendations.

29. Variance Procedures

We agree with the modifications to the Variance procedure as expressed in the Diagnostic Report.

30. Nonconforming Structures Uses and Structures

We agree with the modifications to the Nonconforming Structures Uses and Structures procedure as expressed in the Diagnostic Report.

31. Amortization of Nonconforming Uses and Structures

The FDC cannot support the concept of terminating a viable use which has been in existence for a considerable period of time merely because growth has caught up to such a use. If the City desires a use to relocate, we believe the more equitable solution to be for the City to acquire the site and compensate that corporate citizen for costs associated with such a move.

32. Vested Rights Application

The FDC cannot support a process in which "vesting" is defined. We believe that State law sets forth the standard and does not need to be clarified by the City. Further, this requirement adds another procedure to an already expensive development process

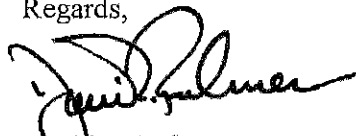
33. General Procedures

We agree that the procedures need to be clarified and welcome these changes provided the changes do not inhibit the ability of a developer to a full review and consideration of an application by the appropriate decision-making bodies. As part of this revision, we would also like to recommend that schedules for submittal, review, responses from staff review and meetings/hearings for the appropriate decision-making entities be provided. Further, we suggest that each process identify the standard of review by which the staff and decision-making entity considers an application. Additionally, we request that an action letter be returned to an applicant which sets forth in specificity why an action was taken. We ask for these measures so that we can work more effectively with City staff.

John, once again, on behalf of the Frisco Developers Council, I would like to thank you for the opportunity to review and comment on the Diagnostic Report. We believe that this is an important document that will help facilitate necessary changes to the Zoning Ordinance and allow us to work more effectively with your department and other departments in the City. Please note that we suggest that the document be reviewed by builders who have experience in Frisco. Many of the suggested revisions will have significant impacts on their business. The FDC review of the Diagnostic Report focused primarily from the developer's perspective.

We look forward to meeting with you to review these comments and with working with you in the coming months on the proposed Zoning Ordinance amendments.

Regards,



David C. Palmer
FDC President

Cc: Eddie Collins (eddiecollins77@gmail.com);
William Dahlstrom (wdahlstrom@jw.com);
Mike Gavin (msg8354@hotmail.com);
Larry Levey (llevey@hallfinancial.com);
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Cathy Sweeney (csweeney@fairwaysecurities.com);
Jake Wagner (jwagner@rpgdallas.com);

Michael Walker

From: John Lettelleir
Sent: Wednesday, November 25, 2009 4:04 PM
To: Jeffrey Witt; Michael Walker
Subject: FW: FDC response to Zoning Diagnostics Report
Attachments: John L. response of 11252009 Final.doc

Updated wording.

From: David Siciliano [mailto:dsiciliano@sbcglobal.net]
Sent: Wednesday, November 25, 2009 4:02 PM
To: John Lettelleir
Cc: 'Jake Wagner'; wdahlstrom@jw.com; dpalmer@cencorrealty.com
Subject: RE: FDC response to Zoning Diagnostics Report

Revised comments are attached.

Dave

From: John Lettelleir [mailto:JLettelleir@friscotexas.gov]
Sent: Wednesday, November 25, 2009 3:59 PM
To: David Siciliano
Cc: 'Jake Wagner'; wdahlstrom@jw.com; dpalmer@cencorrealty.com
Subject: RE: FDC response to Zoning Diagnostics Report

Please send me an updated version.

From: David Siciliano [mailto:dsiciliano@sbcglobal.net]
Sent: Wednesday, November 25, 2009 3:52 PM
To: John Lettelleir
Cc: 'Jake Wagner'; wdahlstrom@jw.com; dpalmer@cencorrealty.com
Subject: RE: FDC response to Zoning Diagnostics Report

John: Please make one correction: we are not opposed to the amortization suggestions to the Report. We could support that subject to our review of the ordinance.

Do you want me to correct what was sent, or do you prefer to make that note?

Best,

Dave

From: John Lettelleir [mailto:JLettelleir@friscotexas.gov]
Sent: Wednesday, November 25, 2009 3:40 PM
To: David Siciliano
Cc: 'Jake Wagner'; wdahlstrom@jw.com; dpalmer@cencorrealty.com
Subject: RE: FDC response to Zoning Diagnostics Report

David:

Thank you for the response. With your permission I will forward to City Council – please let me know.

Sincerely,

John

From: David Siciliano [mailto:dsiciliano@sbcglobal.net]
Sent: Wednesday, November 25, 2009 3:32 PM
To: John Lettelleir
Cc: 'Jake Wagner'; wdahlstrom@jw.com; dpalmer@cencorrealty.com
Subject: FDC response to Zoning Diagnostics Report

John: Please find our comments per our phone conversation yesterday. Have a great holiday.

Dave

John:

Thank you for calling regarding moving the Zoning Diagnostic Report forward. FDC is generally supportive of moving forward with the actions recommended in the report; however, many issues can't be fully weighed until more details are known. As you know, FDC reviewing this report raised several other timely issues that we would like to raise, but we do not wish to slow the progress of this report over other issues. So, we have tried to address where we stand on the report. Please know we are researching where we disagree and other important issues we would like to raise so we can bring those forward to you and city leaders in a clear, concise manner in the near future.

8. Review Setbacks for all zoning districts. The report recommends that all setbacks be reviewed to provide a look and feel consistent with the 2006 Comprehensive Plan.

FDC supports the review of all set backs. However, we cannot be supportive or against any particular change until we know specifically what will be recommended.

9. Review Lot Size, Width, and Depth Requirements for all Zoning Districts.

FDC supports the review in general, however, is concerned about where this may lead, particularly since a discussion has arisen over block lengths being shortened which could add paving. Frisco already has a very high concrete-to-house ratio and shortening blocks and street lengths will add more cross streets, unnecessarily raise development costs, reduce greenscape and sustainability and increase maintenance and replacement responsibilities by the city in the future. Staff responded in the November 17th memo to Council that consideration should be given to density when determining appropriate block lengths. If the shorter blocks are only in highly dense areas, we may support that, but need to see more specifics to approve.

11. Require Housing Integration. FDC supports this in terms of integrating different products within a large community; not, by varying lot sizes and putting different products within a smaller development area. However, if this is not mandatory and incentives are given to try alternatives, we are supportive.

25. Residential driveway standards. The report recommends double-front driveways; that is; front load homes will have driveways next to each other rather than a lot width apart.

FDC is opposed to this being made mandatory. We have repeatedly tried to point out this is more expensive, is not accepted by home buyers, and is a matter where standards delve into our business and impinge on our rights. To the extent it is voluntary, we will not oppose.

31. Sustainable Placemaking and Concepts from the Form Base Code. The Report recommends including concepts from the Form Based Code in the new zoning ordinance.

FDC understands the motivation but is highly concerned this will unnecessarily further restrict development and would like to understand the specific concepts that will be included. The Planning Dept. says the Form Based Code is meant to grant developers flexibility, however FDC disagrees on many issues; we point to examples of limiting block lengths to 800 ft. and not allowing cul de sacs as well as restrictions that garages on front entry homes have to be set back 20' from front façade of the house because it eliminates most floor plans for builders.

35. Amortization of Nonconforming Uses and Structures.

FDC is not opposed to this and may support it subject to reviewing the ordinance language.

36. Vested rights application. Current city standards have limited vesting times for plats. Staff's reasoning is standards may change and an old plat should not allow development to continue under old standards after some period of time.

FDC believe state laws adequately address this matter and is not supportive of the city 'clarifying' matters in their own words. We are now seeing developers lose vesting because of an economic downturn under current city standards. How can a long-term, master-plan developer, or even a multiple phase developer reasonably make projections if vesting is on a phase by phase basis and expires repeatedly during on going development?